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of the deposit of ratifications will be drawn up as soon as it has been ratified by Germany, on the one hand, and by three of the Principal Allied and Associated Powers on the other hand; thus indicating that this *procès verbal* is to be followed by others as other nations ratify, so that each party in turn will be given an opportunity to record its acceptance of any reservations which may be proposed.

Considering the effect of reservations in the ratification of the treaty of peace, it should be noted that this treaty is multi-lateral only so far as the League of Nations Covenant is concerned. All of the high contracting parties, including Germany, agree indiscriminately to the Covenant, although Germany is excluded from participation in the League, and consequently the terms of the Covenant may be changed by the members of the League without consulting Germany. The rest of the treaty is bi-lateral, the parties being the Allied and Associated Powers, on the one part, and Germany on the other part. Two different kinds of treaties are thus combined in the treaty of peace.

It must be noted further that there is no provision in the peace treaty making its coming into force dependent upon ratification by all the signatories. On the contrary, it is expressly provided in the fourth clause from the last that the treaty will enter into force for each Power at the date of the deposit of its ratification. Furthermore, the treaty provides in the introductory clauses that "from coming into force of the present treaty the state of war will terminate."

It would seem to follow from these considerations that although all of the parties except Germany would be concerned in reservations as to the Covenant, none of the Allied and Associated Powers would be concerned purely as a question of law in reservations exempting the United States from adherence to any or all of the other provisions of the treaty.

CHANDLER P. ANDERSON.

THE SHANTUNG CESSION

Articles 156-158, Section VIII, Part IV of the Treaty of Peace with Germany contain the following provisions relating to Shantung Province:

Art. 156. Germany renounces, in favour of Japan, all her rights, title and privileges—particularly those concerning the territory of Kiaochow, railways, mines and submarine cables—which she acquired in virtue of the Treaty con-

cluded by her with China on March 6, 1898, and of all other arrangements relative to the Province of Shantung.

All German rights in the Tsingtao-Tsinanfu Railway, including its branch lines, together with its subsidiary property of all kinds, stations, shops, fixed and rolling stock, mines, plant and material for the exploitation of the mines, are and remain acquired by Japan, together with all rights and privileges attaching thereto.

The German State submarine cables from Tsingtao to Shanghai and from Tsingtao to Chefoo, with all the rights, privileges and properties attaching thereto, are similarly acquired by Japan, free and clear of all charges and encumbrances.

Art. 157. The movable and immovable property owned by the German State in the territory of Kiaochow, as well as all the rights which Germany might claim in consequence of the works or improvements made, or of the expenses incurred by her, directly or indirectly, in connection with this territory, are and remain acquired by Japan, free and clear of all charges and encumbrances.

Art. 158. Germany shall hand over to Japan, within three months from the coming into force of the present Treaty, the archives, registers, plans, title-deeds and documents of every kind, wherever they may be, relating to the administration, whether civil, military, financial, judicial or other, of the territory of Kiaochow.

Within the same period Germany shall give particulars to Japan, of all treaties, arrangements or agreements relating to the rights, title or privileges referred to in the two preceding articles.¹

In order to understand what "rights, title, and privileges" Japan has thus acquired in the Chinese province of Shantung, it is necessary to examine the convention of March 6, 1898, between Germany and China respecting the lease of Kiaochow. As is well known, this treaty was extorted by Germany from China by a display of force, but the use of coercion of this kind on the part of a government, even though really an act of national brigandage, has never been regarded as having the effect of invalidating a treaty.

The Kiaochow Convention of 1898² is divided into three sections. Section I, consisting of five articles, relates to such matters as rights of German troops, the term and purpose of the lease, the limits of the territory leased, the rights of Chinese vessels in Kiaochow Bay, the rights of the Chinese population in the ceded territory, etc.

The terms and purpose of the lease are thus set forth in Article II:

With the intention of meeting the legitimate desire of His Majesty the German Emperor, that Germany, like other Powers, should hold a place on the

¹ Senate document No. 49, 66th Cong., 1st sess., p. 70.

² Translation from the German text as printed in *Customs*, Vol. II, p. 208.

Chinese coast for the repair and equipment of her ships, for the storage of materials and provisions for the same, and for other arrangements connected therewith, His Majesty the Emperor of China cedes to Germany on lease, provisionally for ninety-nine years, both sides of the entrance to the Bay of Kiaochow. Germany engages to construct, at a suitable moment, on the territory thus ceded, fortifications for the protection of the buildings to be constructed there and of the entrance to the harbour.

Art. III defines the limits of the territory leased:

In order to avoid the possibility of conflicts, the Imperial Chinese Government will abstain from exercising rights of sovereignty in the ceded territory during the term of the lease, and leaves the exercise of the same to Germany within the following limits:

- (1) On the northern side of the entrance to the bay:

The peninsula bounded to the north-east by a line drawn from the north-eastern corner of Potato Island to Loshan Harbour.

- (2) On the southern side of the entrance to the bay:

The peninsula bounded to the south-west by a line drawn from the southwesternmost point of the bay lying to the south-south-west of Chiposan Island in the direction of Tolosan Island.

- (3) The Island of Chiposan and Potato Island.

- (4) The whole water area of the bay up to the highest water-mark at present known.

- (5) All islands lying seaward from Kiaochow Bay, which may be of importance for its defence, such as Tolosan, Chillienchow, etc.

It should be noted that the lease covers a very restricted territory (including a water as well as a land area) within the limits of which the Chinese Government agrees to "abstain from exercising the rights of sovereignty." It is not clear whether these rights of sovereignty are theoretically or abstractly reserved to China, as, for example, was done in the case of the lease of Port Arthur to Russia, where it was expressly stated that "this act of lease, however, in no way violates the sovereign rights of His Majesty the Emperor of China to the above-mentioned territory (Art. I of the Convention for the lease of the Liaotung Peninsula, March 27, 1898).³ The language used in the last paragraph of Article III of the Kiaochow Convention would appear to support the view that there was a theoretical and legal as well as actual transfer of sovereignty to Germany.

This paragraph reads:

Chinese ships of war and merchant-vessels shall enjoy the same privileges in the Bay of Kiaochow as the ships of other nations on friendly terms with

³ Supplement to this JOURNAL, Vol. 4, p. 289.

Germany; and the entrance, departure, and sojourn of Chinese ships in the bay shall not be subject to any restrictions other than those which the Imperial German Government, in virtue of the rights of sovereignty over the whole of the water area of the bay transferred to Germany, may at any time find it necessary to impose with regard to the ships of other nations.

There is, however, no question as to the express reservation of sovereignty by China in the zone surrounding Kiaochow Bay. In Article I the Emperor of China

engages, while reserving to himself all rights of sovereignty in a zone of 50 kilometres (100 Chinese *li*) surrounding the Bay of Kiaochow at high-water, to permit the free passage of German troops within this zone at any time, as also to abstain from taking any measures, or issuing any Ordinances therein, without the previous consent of the German Government, and especially to place no obstacle in the way of any regulation of the water-courses which may prove to be necessary.

The rights of the Chinese population residing in the leased territory are thus safeguarded in Article V:

The Chinese population dwelling in the ceded territory shall at all times enjoy the protection of the German Government, provided that they behave in conformity with law and order; unless their land is required for other purposes they may remain there.

If land belonging to Chinese owners is required for any other purpose, the owner will receive compensation therefor.

Section II, concerning "Railway and Mining Affairs" requires citation in full.

Art. I. The Chinese Government sanctions the construction by Germany of two lines of railway in Shantung. The first will run from Kiaochow via Weihien, Tsingchofu, Poshan, Tzechwan, and Tsowping to Tsinan and the boundary of Shantung. The second line will run from Kiaochow to Ichowfu, and from there to Tsinan via Laiwuhsien. But the construction of the extension from Tsinan to the boundary of Shantung shall not be begun until the railway is completed as far as Tsinan in order that further consideration may be given by the Chinese as to how they will connect this with their own trunk line. The route to be taken by this last branch will be definitely determined in the regulations which will be drawn up hereafter.

Art. II. In order to carry out the above-mentioned railway work, a Chino-German Company shall be formed. This Company may have offices in one place or in several places, and both German and Chinese merchants shall be at liberty to invest money therein, and share in the appointment of directors for the management of the undertaking.

Art. III. Germany and China shall in the near future draw up a further agreement relative to the management of the railway by the Company, and all matters pertaining thereto shall be discussed and decided upon by these two countries alone. But the Chinese Government shall afford every facility to the Chino-German Company in the construction of the road, and it shall enjoy all the advantages and benefits extended to other Chinese-foreign companies operating in China. It is understood that the object of this agreement is solely the development of commerce, and in constructing this railroad there is no intention to unlawfully seize any land in the Province of Shantung.

Art. IV.—The Chinese Government will allow German subjects to hold and develop mining property for a distance of thirty *li* from each side of those railways and along the whole extent of the lines. The following places where mining operations may be carried on are particularly specified: Weihsien and Poshan along the line of the northern railway from Kiaochow to Tsinan, and Ichow, Laiwuhsien, etc., along the southern or Kiaochow-Ichow-Tsinan line. Both German and Chinese capital may be invested in these mining and other operations, but as to the rules and regulations relating thereto, this shall be left for future consideration. The Chinese Government shall afford every facility and protection to German subjects engaged in these works, just as provided for above in the article relating to railway construction, and all the advantages and benefits shall be extended to them that are enjoyed by the members of other Chinese-foreign companies. The object in this case is also the development of commerce solely.

And Section III, relating to “Commercial Operations in Shantung,” reads as follows:

The Chinese Government binds itself in all cases where foreign assistance, in persons, capital or material, may be needed for any purpose whatever within the Province of Shantung, to offer the said work or supplying of materials in the first instance to German manufacturers and merchants engaged in undertakings of the kind in question. In case German manufacturers or merchants are not inclined to undertake the performance of such works, or the furnishing of materials, China shall then be at liberty to act as she pleases.

As a result of Japan's ultimatum of May 7, 1915, China signed on May 25 and ratified on June 8, 1915, the following Treaty respecting the Province of Shantung: ⁴

Article I. The Chinese Government agrees to give full assent to all matters upon which the Japanese Government may hereafter agree with the German Government relating to the disposition of all rights, interests and concessions which Germany, by virtue of treaties or otherwise, possesses in relation to the Province of Shantung.

⁴ Hornbeck, *Contemporary Politics in the Far East*, p. 332.

Art. II. The Chinese Government agrees that as regards the railway to be built by China herself from Chefoo or Lungkow to connect with the Kiaochow-Tsinanfu railway, if Germany abandons the privilege of financing the Chefoo-Weihsien line, China will approach Japanese capitalists to negotiate for a loan.

Art. III. The Chinese Government agrees in the interest of trade and for the residence of foreigners, to open by China herself as soon as possible certain suitable places in the Province of Shantung as Commercial Ports.

Art. IV. The present treaty shall come into force on the day of its signature.

On the same date (June 8, 1915), in an Exchange of Notes between the two Governments, Japan agreed to restore the leased territory of Kiaochow Bay to China on these conditions:⁵

1. The whole of Kiaochow Bay to be opened as a Commercial Port.
2. A concession under the exclusive jurisdiction of Japan to be established at a place designated by the Japanese Government.
3. If the foreign Powers desire it, an international concession may be established.
4. As regards the disposal to be made of the buildings and properties of Germany and the conditions and procedure relating thereto, the Japanese Government and the Chinese Government shall arrange the matter by mutual agreement before the restoration.

During the recent discussions as to the disposal of Japan's conquests made during the war at the Paris Peace Conference, it came to light that Great Britain, France, Italy, and Russia, by an Exchange of Notes with Japan in February, 1919, had agreed to "support Japan's claims in regard to the disposal of Germany's rights in Shantung and possessions in the islands north of the equator on the occasion of the Peace Conference."⁶

The above are the main official documents on which the rights and privileges that Japan has acquired in Shantung will be based. They are thus summarized by one of the leading authorities on contemporary politics in the Far East:

The territory leased to Germany in March, 1898, included the Bay of Kiaochow and its immediate environment, some 400 square miles in all, to be held and administered by Germany for 99 years. In the immediate hinterland a neutral zone involving some 2,500 square miles was established. Germany was given the right to build two lines of railway in the province and to open mines along the lines; also a guaranty that German capital, assistance, and materials

⁵ Hornbeck, *op. cit.*, pp. 333-334.

⁶ See *New York Times*, April 22, 1919. The above citation is from the British note.

should be sought first in case the Chinese chose to develop the province with foreign aid.⁷

Upon the question of the obligation of Japan, whether moral or legal, to restore Kiaochow to China, we do not propose to enter. Indeed, it does not seem to us particularly important. Even if the so-called "restoration" be made, it will probably be upon such conditions as would leave Japan in virtual or actual political and economic control of the Shantung Province, and therefore with a firm grip on China. As a distinguished Chinese politician and diplomatist has expressed it, "she (Japan) will give us back the shells and keep the oysters."⁸

AMOS S. HERSHEY.

THE PEACE NEGOTIATIONS WITH GERMANY¹

"It is neither the time nor the place for superfluous words. . . . The time has come when we must settle our account." In this plain, curt, business-like language, the negotiations for the restoration of peace, requested by the German Government of the President of the United States on October 6, 1918, were opened by Premier Clemenceau at Versailles on May 7, 1919.

The time was the fourth anniversary of the sinking of the *Lusitania*, and the place was the scene of Germany's peace of conquest, dictated to France in 1871. Perhaps the long series of barbarous crimes on land and sea of which the former event was merely typical and the ineffaceable memory of the half century of injustice which the latter event meant to France, inspired the language of the veteran French statesman who acted as spokesman for the twenty-seven nations, great and small, which Germany's unsuccessful attempt to repeat her triumphs of conquest of 1871 on a more ambitious scale in 1914-1918 had forced into the war of self-defense against her. Undoubtedly M. Clemenceau's words were intended to impress upon the German delegates that the terms of peace to be presently handed to them, which had been formulated and agreed upon by the Allied and

⁷ Hornbeck, *op. cit.*, p. 295.

⁸ Dr. C. T. Wang, in *The Outlook*, June 25, 1918.

¹ Except where otherwise stated, the quotations and other references to documents are taken from the English translations appearing in the *New York Times Current History* for June, July and August, 1919.